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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,315	04/21/2004	Rui-Chi Shen	SHEN3034/EM	4220
23364	7590	08/24/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			MULLER, BRYAN R	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/828,315

Applicant(s)

SHEN, RUI-CHI

Examiner

Bryan R. Muller

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The reference number "23" in line 22 on page 5 of the specification should be changed to "63".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the applicant is claiming a separate embodiment wherein the positioning plate is sheet shaped, as opposed to E-shaped, which is not shown in the drawings or if the applicant is further defining that the E-shaped positioning plate is also substantially sheet shaped.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 7, 8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (2005/0145075).

6. In reference to claim 1, Lee discloses a ratchet wrench, comprising a handle (12), a drive head (20) mounted on an end of the handle and having a first end formed with a receiving hole (16), a mediate portion formed with a receiving recess (18) communicating with the receiving hole, and a second end formed with a receiving chamber (24) communicating with the receiving recess, a ratchet wheel (36) mounted in the receiving hole of the drive head, a pawl member (52) pivotally mounted in the receiving recess of the drive head and engaged with the ratchet wheel, a control knob (62) rotatably mounted in the receiving chamber of the drive head and having an inside formed with a passage(s) (170, 168) radially extended through the control knob, a positioning plate (184) mounted in the passage of the control knob and having a first end rested on the pawl member to push the pawl member to press the ratchet wheel and an urging spring (186) mounted on a second end of the positioning plate and urged between the positioning plate and the drive head. The positioning plate is bent such that the ends (186) of the plate act as the spring member.

7. In reference to claim 7, Lee further discloses that the pawl member has a side formed with an arcuate positioning edge, and the first end of the positioning plate is rested on the positioning edge of the pawl member.

8. In reference to claim 8, Lee further discloses that the passage(s) of the control knob are aligned with the positioning edge of the pawl member.

9. In reference to claim 12, Lee further discloses that the positioning plate has a sheet shape.

### ***Double Patenting***

10. Claims 1-12 of this application conflict with claims 1, 5, 7, 9-11 and 13-15 of Application No. 10/828314. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

11. Claims 1-3, 5, 6 and 8-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 7, 9, 10 and 13-15 of copending Application No. 10/828314. Although the conflicting claims are not identical, they are not patentably distinct from each other because All of

the limitations of claim 1 of this application are included in claims 1 and 9 of the co-pending application, all of the limitations of claim 2 of this application are included in claim 10 of the co-pending application, all of the limitations of claim 3 of this application are included in claim 11 of the co-pending application, all of the limitations of claim 5 of this application are included in claim 13 of the co-pending application, all of the limitations of claim 6 of this application are included in claim 14 of the co-pending application, all of the limitations of claim 8 of this application are included in claim 15 of the co-pending application, all of the limitations of claim 9 of this application are included in claim 5 of the co-pending application and all of the limitations of claims 10 and 11 of this application are included in claim 7 of the co-pending application.

12. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

13. Claims 4, 7 and 12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, and 11 of copending Application No. 10/828314.

14. In reference to claim 4, the co-pending application does not specifically claim that the urging spring is supported and guided by the guide shaft of the positioning plate, but the co-pending application does claim that the urging spring is mounted on the guide shaft so the guide shaft would inherently support and guide the urging spring.

15. In reference to claim 7, the co-pending application does not specifically claim that the positioning plate is rested on the positioning edge of the pawl member, but the co-

pending application does claim that the positioning plate is urged on the pawl member (line 5 of claim 9), that the positioning plate is mounted in the passage of the control knob (line 2 of claim 9) and that the passage of the control knob is aligned with the positioning edge of the pawl member, thus the positioning plate must inherently rest on the positioning edge of the pawl member.

16. In reference to claim 12, the co-pending application does not specifically claim that the positioning plate has a sheet shape, but the co-pending application does claim that the positioning plate is substantially E-shaped (claim 10), thus because it is a plate and it is E-shaped, the positioning plate inherently must have a sheet shape.

This is a provisional obviousness-type double patenting rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R. Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BRM BRN  
8/17/2005



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